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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RANDOLPH A. STERN and MICHAEL N. BYLES

Appeal 2010-011528
Reissue Application 09/558,329
Technology Center 1700

Before PETER F. KRATZ, CATHERINE Q. TIMM, and LINDA M.
GAUDETTE, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

DECISION ON APPEAL¹

I. STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision to reject claims 1-87, all the claims pending in the reissue application. We have jurisdiction under 35 U.S.C. § 6(b).

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

We AFFIRM.

Appellants' invention relates to a stitch bonded facing fabric and fluid retaining fabrics, such as those used in incontinent pads. All of the claims require a plurality of stitch bonding yarns repeatedly extending through a felt layer to form a yarn face on the felt surface.

This Board panel previously decided an appeal involving this application (*see* Decision of Jan. 19, 2005 in Appeal No. 2005-0019). In that Decision, we reversed the Examiner's decision to reject claims 30-87 for non-enablement under 35 U.S.C. § 112, ¶ 1. However, we upheld the Examiner's rejections based upon prior art. During further prosecution of the application, Appellants amended each of the independent claims to further require that each yarn face be "effectively continuous such that the corresponding web surface is not generally exposed at the associated yarn face." Claim 58 illustrates the invention now on appeal:

58. A stitch bonded facing fabric comprising:

a first layer of felt having hydrophobic properties and further having an outer surface; and

a plurality of stitch bonding yarns repeatedly extending through the first layer of felt with yarn segments extending across the outer surface of the layer of felt, such that the yarn segments extending across the felt layer outer surface cooperate to form a yarn face above the felt layer outer surface;

wherein the yarn face is effectively continuous such that the outer surface of the layer of felt is not generally exposed at the yarn face.

The Examiner maintains all of the prior art rejections we previously reviewed, and Appellants again seek review of those rejections. The rejections to be reviewed are:

1. The rejection of claims 65 and 67-69 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,025,129 to Sternlieb;
2. The rejection of claims 30-37 and 51-64 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,181,514 to Lefkowitz;
3. The rejection of claims 1, 3-9, 12, 14-20, 30, 32-38, 51, 53-56, 58, 61-66, 68, and 69 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 4,675,226 to Ott;
4. The rejection of claims 30, 32-36, 39, 41, 42, 46-51, 53-56, 65, 68, 69, 80, 83, 84, 86, and 87 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,356,402 to Gillies;
5. The rejection of claims 2, 10, 11, 13, 21, 22, 31, 52, 57, 60, and 67 under 35 U.S.C. § 103(a) as unpatentable over Ott;
6. The rejection of claims 1, 3-12, 14-23, 26-29, 37, 38, 43, 57, 58, 61-64, 66, 70, 71, 73, 74, 76-79, and 81 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of Ott;
7. The rejection of claim 25 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of Ott and in further view of Lefkowitz and U.S. Patent No. 4,128,686 to Kyle;
8. The rejection of claims 40 and 82 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of European Patent 261,904 to Taylor;
9. The rejection of claims 24 and 72 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of Ott and Taylor.

10. The rejection of claims 31, 44, 45, 52, 67, and 85 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of Sternlieb.

11. The rejection of claims 2, 13, 59, 60, and 75 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of Ott and Sternlieb; and

12. The rejection of claims 1-23, 25-39, 41-71, 73-81, and 83-87 under 35 U.S.C. § 103(a) as unpatentable over Kyle in view of Gillies, Ott and/or Sternlieb.

13. The rejection of claims 24, 40, 72, and 82 under 35 U.S.C. § 103(a) as unpatentable over Kyle in view of Gillies, Ott, and/or Sternlieb, and further in view of Taylor.

II. DISCUSSION

For each of the rejections based on Sternlieb, Lefkowitz, Ott, or Gillies, alone, Appellants contend that the cited reference does not describe a felt, and/or does not teach a yarn face that is “effectively continuous such that the corresponding web surface is not generally exposed at the associated yarn face” as required by the independent claims. In order to resolve the issue of whether the references teach the required felt and yarn face, we must construe the relevant claim language.

Appellants rely upon two declarations from Declarant E. Linwood Wright (Wright Decl. and Supp. Wright Decl.) to provide evidence to support their position. Mr. Wright has over forty-nine years of textile experience with Dan River Inc. of Danville, Virginia, a textile supplier to the assignee of the reissue application (Wright Decl. ¶¶ 3-6). In assessing the probative value of declaratory evidence, one must consider the nature of the matter sought to be established as well as the strength of the opposing

evidence. *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978). We find Mr. Wright to be well qualified to provide his expert opinion regarding the knowledge of those within the textile arts, and we have considered his opinions in weighing the evidence as a whole.

A. THE MEANING OF “FELT”

Wright declares that “felt” is understood in the art to mean “a nonwoven sheet of matted material of wool, hair, fur, or manufactured fibers (e.g., polyester, polypropylene, or rayon) made by a combination of mechanical and chemical action, pressure, moisture, and heat, such matted material has structural integrity, i.e., tensile strength, in all directions.” (Wright Decl. ¶ 12.)

The Examiner, however, finds that the Specification lacks an explicit definition of “felt,” and interprets “felt web” in the broad sense as “any nonwoven, web, or batting comprising discontinuous or staple fibers.” (Ans. 4 and 13.)

During examination, “claims . . . are to be given their broadest reasonable interpretation consistent with the specification, and . . . claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).

As correctly found by the Examiner, and not disputed by Appellants, Appellants’ Specification lacks an explicit definition for “felt” or “felt web.” (See generally Spec.; see also Br. 25-27; Reply Br. 2-3) Appellants’ Specification uses the word “felt” to describe a layer of nonwoven polymeric fibers underlying a knit or woven facing fabric layer conventionally used in

an incontinent pad (Spec., col. 1, ll. 13-21; col. 2, ll. 37-39; col. 3, l. 52). The felt layer absorbs liquid and provides rigidity to the pad (*id.*). Appellants improve the conventional pad by replacing the knit or woven facing fabric layer of the prior art with a stitch bonded yarn face (Spec., col. 1, ll. 44-47). Those stitch bonded yarns hold the layers 14, 16 of the felt web 12 together as well as define top and bottom yarn faces without interfering with the absorbency or structural rigidity of the felt web (Spec., col. 1, ll. 47-58; col. 2, ll. 34-37; Figs. 2-3).

We determine that, interpreted as broadly as is reasonable and consistent with the Specification as it would be interpreted by the ordinary artisan, the term “felt” refers to the type of nonwoven material normally found underlying a facing layer in an incontinence pad, and that functions to retain liquids within the pad, i.e., a nonwoven layer of matted or entangled fibers. The Specification provides some support for interpreting the claim term “felt” as a material that provides some structural rigidity to the pad. However, the Declarant’s opinion testimony is not persuasively supported in so far as the requirement for structural integrity in all directions. A declarant’s opinion testimony must be factually supported to be probative. *In re Altenpohl*, 500 F.2d 1151, 1158 (CCPA 1974). Therefore, we adopt a definition of “felt” in which the matted nonwoven has enough structural integrity to provide some structural rigidity as disclosed in the Specification.

B. MEANING OF “EFFECTIVELY CONTINUOUS SUCH THAT THE CORRESPONDING WEB SURFACE IS NOT GENERALLY EXPOSED”

Turning to the claim language “wherein each yarn face is effectively continuous such that the corresponding web surface is not generally exposed

at the associated yarn face,” the question is: To what extent do “effectively continuous” and “not generally exposed” limit the structure of the yarn face?

The Examiner determines that the limitation is a relative, subjective description of the yarn face (Ans. 9). The Examiner further finds little guidance in the Specification for determining what yarn spacing qualifies as “effectively continuous such that the corresponding web surface is not generally exposed at the associated yarn face” (Ans. 10).

Appellants contend that, contrary to the Examiner’s determination, the added claim language is not too subjective, and the Examiner has failed to properly consider the new claim limitation (Br. 18-19). According to Appellants, “effectively” and “generally” sufficiently guide one of ordinary skill in the art to understand the metes and bounds of the invention (Br. 19).

The relevant portion of the Specification relied upon by both the Examiner and Appellants for their respective positions reads:

It will be appreciated that yarn segments 18' and 18" . . . extend across the surfaces 20 and 22, and are of *sufficient density*, that yarn segments 18' cooperate to define a top yarn face 24 of fabric 10 above web upper surface 20, and yarn segments 18" cooperate to define a bottom yarn face 26 of fabric 10 below web lower surface 22. Faces 24 and 26 are *effectively continuous* such that web 12 is not *exposed* thereat, although *small gaps or interstices* (as at 28) between adjacent yarn segments 18' or 18" may allow viewing of felt surface 20 or 22 upon close inspection.

(Spec., col. 2, ll. 59-63 (emphasis added); Br. 22-23; Ans. 9-10).

Figures 3 and 4 depicts the “small gaps” or “interstices” formed when the yarn faces are knitted in flat stitch construction across the web upper surface 20 with underlaps at 30 (Fig. 3) and overlaps at 32 (Fig. 4) using conventional Malipol-type machines (Spec., col. 2, l. 66 to col. 3, l. 5). But

the interstices are greatly exaggerated in these figures (Spec., col. 2, ll. 63-64).

The Wright Declaration defines “effectively continuous” as meaning that “the felt web surface is ‘not generally exposed,’ i.e., not readily viewable through the yarn face without magnification and not readily felt.” (Wright Decl. ¶ 10).

We agree with Appellants that the Specification provides some guidance as to the meaning of the claim limitation. The language of the claim itself defines the meaning of “effectively continuous,” i.e., it defines “effectively continuous” in terms of outer felt surface exposure, which is said to be “not generally exposed.” The language of the Specification is almost identical to that of the claim except that the Specification does not use the broadening term “generally” before exposed. From a reading of the Specification “generally” appears to encompass the “small gaps” and “interstices” between adjacent yarn segments that may allow viewing of the felt surface upon close inspection, and based upon our weighing of the evidence as a whole we interpret the claim to give “generally” that meaning.

C. ANTICIPATION BY STERNLIEB

With respect to the rejection for anticipation of claims 65 and 67-69 by Sternlieb, Appellants focus their arguments on claim 65. Therefore, we will do the same. The relevant question is: Have Appellants identified an error in the Examiner’s finding that Sternlieb describes a stitch bonding facing fabric having a “felt” layer and a yarn face that is “effectively continuous such that the outer surface of the layer of felt is not generally exposed at the yarn face” as required by claim 65?

Sternlieb describes supplying a one-eighth to one-half inch thick web 1 of cardable fibers in unbonded, uncompacted condition from a web feed roller 2 to guide rolls 4 and onto a conveyor 6 to a scrim zone 5 (Sternlieb, col. 2, ll. 20-40; Fig. 1). The fibers within the web are one to two inches in length, intermingled, and non-parallel with each other (Sternlieb, col. 2, ll. 27-28).

The Wright Declaration acknowledges that Sternlieb's fibers are intermingled and non-parallel (Wright Decl. ¶ 13).

Based on the evidence as a whole, we agree with the Examiner that Sternlieb describes a "felt" layer as claimed (Ans. 14). Sternlieb's one-eighth to one-half inch web of intermingled fibers is a nonwoven web of matted (entangled) fibers. Such a web of matted fibers must also have enough structural integrity to allow it to be unrolled and conveyed to a scrim zone. The evidence of record indicates that this is enough structural integrity to qualify it as a "felt" within the meaning of the incontinence pad art. As stated by the Examiner, the intermingling of fibers to form Sternlieb's web would inherently produce at least some matting and structural integrity for subsequent processing (Ans. 14).

While Wright declares that "[t]o one of ordinary skill in the art, these layers of unmatted carded fibers and of woven fabric are not felts," neither the Wright Declaration nor Appellants provide any convincing evidence supporting this statement. Particularly, Appellants provide no convincing evidence to overcome the Examiner's reasonable conclusion that matting (fiber entanglement) and structural integrity would inherently be present in Sternlieb's web 1. Nor does Wright, or Appellants, provide any evidence

that “felts” are understood within the incontinence pad art to have any specific level of matting or strength that is higher than that present in Sternlieb’s web.

With respect to the continuous nature of the yarn face, according to Appellants, the Wright Declaration confirms that “it is abundantly clear to one skilled in the art that Sternlieb fails to teach, disclose or otherwise suggest any yarn face as recited in Applicants’ claims.” (Br. 30, citing Wright Decl. ¶ 11).

The Examiner responds that the quantitative values of stitch density, yarn denier, etc. taught by the cited prior art meet the relative degree of exposure claimed by Appellants (Ans. 10).

As pointed out by the Examiner, Sternlieb teaches a yarn face having a stitch density of about 2 ounces per square yard (osy), yarn sizes, of 16-24 singles, and about 12 gauge, 12 stitches per inch (Sternlieb, col. 3, ll. 28-31; Ans. 10).

The Wright Declaration points to Figure 7 of Sternlieb in support of the argument that the yarn face of Sternlieb is not “effectively continuous” as required by the claims. However, there is no evidence that Figure 7 depicts the stitching to scale.

The stitching density is very specifically disclosed by Sternlieb. Neither the Brief, nor the Wright Declaration, points to any specific evidence refuting the Examiner’s reasonable conclusion that the stitching density specifically articulated by Sternlieb would not be “effectively continuous such that the outer surface of the layer of felt is not generally exposed,” i.e., that the yarn face would have more than small gaps and

interstices that would allow viewing of the felt surface upon close inspection, at the yarn face as required by claim 65.

We cannot say that Appellants have identified an error in the Examiner's finding that Sternlieb describes a stitch bonding facing fabric having a "felt" layer and a yarn face that is "effectively continuous such that the outer surface of the layer of felt is not generally exposed at the yarn face" as required by claim 65. We, therefore, sustain the rejection of claims 65 and 67-69 as anticipated by Sternlieb.

D. ANTICIPATION BY LEFKOWITZ

With respect to the anticipation rejection of claims 30-37 and 51-64 by Lefkowitz, Appellants do not argue the claims separately. We select claim 30 as representative. The question is: Does the evidence support the Examiner's finding that Lefkowitz describes a stitch bonded facing fabric including a felt web and an effectively continuous yarn face as claimed?

Lefkowitz describes a filter structure including a batt of relatively brittle fibers stitch knitted with metallic monofilament, metallic yarns, or glass yarns (Lefkowitz, col. 2, ll. 15-23 and ll. 55-60). Example I describes a filter material including a batt of two layers of needled fiberglass stitch knitted with 304 stainless steel monofilament (Lefkowitz, col. 7, ll. 15-26)

Wright declares that "[t]o one skilled in the art, a batt of relatively brittle, unmatted fibers is not a felt." (Wright Decl. ¶ 13.)

The Examiner finds that Lefkowitz describes matted fibers (e.g., needle-punched) with at least sufficient structural integrity to pass through a stitchbonding machine (Ans. 14). According to the Examiner, this constitutes a felt.

Appellants provide no convincing evidence that the needle-punched batt of Lefkowitz is unmatted.

The evidence of record supports the Examiner's determination that Lefkowitz describes a "felt web," i.e., a matted nonwoven with some structural rigidity, as required by claim 30.

With respect to the continuousness of the yarn face, the Examiner finds that Lefkowitz describes stitch-knitting 5 mil monofilament in a two bar tricot stitch having 12 courses per inch (i.e., 12 stitches per inch in the chain stitch direction) with a machine gauge of 40 needles per 10 centimeters or 10 chain stitches per inch (Lefkowitz, col. 7, ll. 21-29).

The Examiner has no method of testing whether the stitch-knitting described in Example I of Lefkowitz would result in an "effectively continuous" yarn face "such that the corresponding web surface is not generally exposed," i.e., only exposed enough to allow for small gaps and interstices that allow viewing the felt surface upon close inspection. Thus, based on the Examiner's reasonable finding that the stitching of Lefkowitz would form an "effectively continuous" yarn face as claimed, the burden was shifted to Appellants to show that the specific stitch knitting density taught in the example relied upon by the Examiner, in fact, does not meet the density required by the claims. Appellants provide no such evidence. We cannot say that Appellants' arguments, nor the evidence in the Wright Declaration, provide the requisite evidence.

The evidence supports the Examiner's finding that Lefkowitz describes a stitch bonded facing fabric including a felt web and effectively

continuous yarn face as required by claim 30. Therefore, we sustain the rejection of claims 30-37 and 51-64 as anticipated by Lefkowitz.

E. ANTICIPATION BY OTT

The Examiner rejects claims 1, 3-9, 12, 14-20, 30, 32-38, 51, 53-56, 58, 59, 61-66, 68, and 69 as anticipated by Ott. Appellants do not argue any claim apart from the others. We select claim 58 as representative for deciding the issue arising for this ground of rejection. There is no dispute that Ott describes the required “effectively continuous” yarn face in accordance with claim 58, the issue is: Does the evidence support the Examiner’s finding that Ott describes a stitch bonded facing fabric including a felt layer as claimed?

The Examiner finds that Ott describes wet-laid or dry-laid paper web layers and spunbond or melt blown nonwoven layers (layers 74, 76, and 78) that inherently possess intermingling and structural integrity, and are, therefore, “felt” layers (Ans. 15).

Appellants contend that layers 74, 76, and 78 are not felts. According to Appellants, Ott concedes that these layers are not felts, none of the layers are matted, and layer 78 fails to have structural integrity in all directions (Br. 31). Appellants further rely upon the Wright Declaration statement that the “unmatted inner and outer layers are not felt to one skilled in the art.” (Br. 31, citing Wright Decl. ¶ 13).

We cannot agree with Appellants that Ott concedes that the layers are not felts. The portions of Ott Appellants cite to support this proposition merely convey that Ott is directed to a disposable wiper that is softer with more bulk and conformity than many textile and nonwoven wiping materials

and can be made at lower cost (Ott, col. 1, ll. 23-29). The softness and lower cost is attributed to the stitchbonding of the layers together, which produces a cloth-like composite wiper (Ott, col. 2, ll. 37-45). Ott does not say that layers 74, 76, and 78 are not nonwoven felt layers.

There is no dispute that Ott describes layers 74 and 76 as made by spunbonding or meltblowing fibers or that Ott describes layer 78 as made from wet-laid or dry-laid fibers (Br. 31; Reply Br. 5). Ott specifically discloses forming cellulose natural fiber layer 78 from a two ply wet formed tissue (Ott, col. 3, ll. 23-27). The layers must have structural integrity in order to survive the conveying process shown in Figure 1 (Ott, col. 3, ll. 48-59).

While Wright declares that the “unmatted inner and outer layers are not felt to one skilled in the art” (Wright Decl. ¶ 13), Wright provides no evidence to contradict the Examiner’s reasonable finding that spunbonding and wet-laying or dry-laying inherently intermingle the fibers, i.e., result in matting.

The evidence supports the Examiner’s finding that Ott describes a stitch bonded facing fabric including a “felt” layer in accordance with the meaning of “felt” in the claims. Therefore, we sustain the rejection of claims 1, 3-9, 12, 14-20, 30, 32-38, 51, 53-56, 58, 59, 61-66, 68, and 69 as anticipated by Ott.

F. ANTICIPATION BY GILLIES

The Examiner rejects claims 30, 32-36, 39, 41, 42, 46-51, 53-56, 65, 68, 69, 80, 83, 84, 86, and 87 as anticipated by Gillies. Appellants again argue the claims as a group. We select claim 65 as representative. The issue

is: Does the evidence support the Examiner's finding that Gillies describes a stitch bonded facing fabric including a "felt" layer?

Appellants contend that the median layer, a "felt" layer according to the Examiner, is formed from carded and crosslaid viscose rayon fibers, and Gillies explains that this layer lacks the cohesiveness and structural integrity needed of a felt layer (Br. 32).

The Examiner responds that Gillies' median layer inherently possesses some degree of matting or intermingling of fibers and at least some degree of structural integrity sufficient for subsequent processing (Ans. 15).

Turning to Gillies, we find that this reference describes a median layer as a nonwoven web of trilobal fibers (Gillies, col. 4, ll. 53-68). The web is produced by carding and crosslaying the fibers in layers to provide the desirable thickness (Gillies, col. 5, ll. 1-7). Gillies states that "[t]he web is maintained as a cohesive unit by stitchbonding." (Gillies, col. 5, ll. 7-8). In other words, the median layers are joined to each other by stitchbonding.

While Wright declares that "to one skilled in the art, this median layer of carded and crosslaid viscose rayon fibers is not matted and, thus, not a felt" (Wright Decl. ¶13), neither Wright nor Appellants provide any convincing evidence that carding does not result in matting.

It is reasonable to believe that carding results in intermingling of fibers, i.e., matting. Moreover, the layer is an absorbent layer used in incontinence pads, which as pointed out in Appellants' Specification, was normally understood to be a "felt" layer (Spec., col. 1, ll. 11-21).

The evidence supports the Examiner's finding that Gillies describes a stitch bonded facing fabric including a "felt" layer in accordance with the meaning of "felt" in the incontinence pad art. We sustain the rejection of claims 30, 32-36, 39, 41, 42, 46-51, 53-56, 65, 68, 69, 80, 83, 84, 86, and 87 as anticipated by Gillies.

G. OBVIOUSNESS

With regard to the obviousness rejections, Appellants focus their arguments on the two rejections directed to the independent claims, i.e., the rejection over Gillies in view of Ott (Rejection 6), and the rejection over Kyle in view of Gillies, Ott, and/or Sternlieb (Rejection 12).

1. OBVIOUSNESS OVER GILLIES AND OTT

Turning first to the rejection over Gillies and Ott, Appellants sole contention is that neither Gillies nor Ott disclose a "felt" (Br. 33). However, as explained above with respect to the anticipation rejections over Gillies and Ott, both these references teach layers that reasonably meet the requirements of a "felt" layer as that term is understood in the incontinence pad art.

We, therefore, sustain the rejection of claims 1, 3-12, 14-23, 26-29, 37, 38, 43, 57, 58, 61-64, 66, 70, 71, 73, 74, 76-79, and 81 under 35 U.S.C. § 103(a) as unpatentable over Gillies in view of Ott.

Appellants do not advance any further arguments directed to the rejections which add further evidence of obviousness to reach dependent claims (Rejections 7, 9, and 11). Therefore, we sustain those rejections for the reasons presented above.

2. OBVIOUSNESS OVER KYLE, OTT, AND/OR STERNLIEB

With regard to the rejection over Kyle in view of Gillies, Ott, and/or Sternlieb, Appellants contend that the Examiner failed to explain why it would have been obvious to modify the incontinent pad of Kyle to accommodate the stitch-bonding of the secondary references (Br. 34). However, we agree with the Examiner that the substitution of Kyle's bonded facing fabric with a stitch-bonded layer would have been tantamount to the substitution of one known facing layer and attachment method for another for the predictable result of forming the facing fabric without need of a separate bonding material (*see* Ans. 17-18; *see also* Ott, cols. 1 and 2). When a claim is to a combination that 'simply arranges old elements with each performing the same function it had been known to perform' and yields no more than one would expect from such an arrangement, the combination is obvious." *KSR*, 550 U.S. 398, 417 (2007), quoting *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282 (1976).

While the Examiner adds Taylor to reject claims 24, 40, 72, and 82 (Rejection 13), Appellants do not make any further arguments directed to that rejection. We, therefore, sustain Rejection 13 for the same reasons as we sustain Rejection 12.

3. OTHER OBVIOUSNESS REJECTIONS

Appellants do not advance any arguments directed to the obviousness rejection over Ott (Rejection 5), which therefore is sustained for the same reasons as applied to the rejection of the independent claims for anticipation over this reference (Rejection 3), nor any arguments for the obviousness rejection over Gillies and Taylor (Rejection 8) or over Gillies and Sternlieb

(Rejection 10), which are, therefore, sustained for the same reasons as applied to the rejection of the independent claims for anticipation by Gillies (Rejection 4).

III. CONCLUSION

On the record before us, we sustain all the rejection maintained by the Examiner.

IV. DECISION

The decision of the Examiner is affirmed.

V. TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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